

Order

Michigan Supreme Court
Lansing, Michigan

June 3, 2015

Robert P. Young, Jr.,
Chief Justice

149917

Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 149917
COA: 314315
Wayne CC: 11-012794-FC

JOHN OLIVER WOOTEN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 26, 2014 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.302(H)(1). The parties shall file supplemental briefs within 42 days of the date of this order addressing: (1) whether the prosecution is permitted, during its case-in-chief, to elicit testimony from a police witness regarding the defendant's pre-arrest silence or failure to come forward to explain a claim of self-defense, see, e.g., *Combs v Coyle*, 205 F3d 269 (CA 6, 2000); *Hall v Vasbinder*, 563 F3d 222 (CA 6, 2009); (2) whether such evidence is admissible as substantive evidence of the defendant's guilt, or as impeachment of the defendant's anticipated defense theory; and (3) if such evidence is inadmissible, whether the trial court clearly erred in finding that the trial prosecutor did not intentionally goad the defense into moving for a mistrial, and whether the trial court erred in granting a mistrial, but allowing the defendant to be retried. The parties should not submit mere restatements of their application papers.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 3, 2015


Clerk